



COVID-19 (Maritime Border) Regulations 2021

Sir Tom J. Marsters, KBE


Queen's Representative

Order in Executive Council

At Avarua, Rarotonga this

20th day of

April,

2021

Present:

His Excellency the Queen's Representative in Executive Council

Pursuant to section 32 of the COVID-19 Act 2020, His Excellency the Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations—

Contents

1	Title	2
2	Commencement	2
	<i>General provisions</i>	
3	Interpretation	2
4	Meaning of enter the Cook Islands	4
	<i>Restrictions on entering Cook Islands</i>	
5	Vessel not permitted to enter Cook Islands except in particular circumstances	4
	<i>Exemption by Secretary of Transport</i>	
6	Secretary of Transport may grant exemption to enter Cook Islands	4
7	Restrictions on cargo vessels granted exemption	5
	<i>Owner and master must ensure compliance with restrictions and any conditions imposed</i>	
8	Owner and master must ensure compliance with restrictions and any conditions of exemption	5
	<i>Restrictions on physical interaction and related measures</i>	
9	Vessels based in Cook Islands must not physically interact with vessels that enter Cook Islands	5
10	Obligations on Ports Authority	6
	<i>When regulations do not apply</i>	
11	Regulations do not apply to vessels in particular circumstances	6

Regulations

1 Title

These regulations are the COVID-19 (Maritime Border) Regulations 2021.

2 Commencement

These regulations come into force on the day after they are made.

General provisions

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the COVID-19 Act 2020

cargo vessel means a commercial vessel that is carrying primarily cargo into or out of the Cook Islands

commercial vessel has the meaning given in section 2(1) of the Maritime Transport Act 2008

Cook Islands means the area covering the islands and territorial sea of the Cook Islands, and includes ports and internal waters

crew—

(a) means the persons employed or engaged in any capacity on board a vessel; and

(b) includes—

(i) a master; and

(ii) a person who is temporarily working on a ship; but

(c) does not include a person undertaking a necessary task

enter the Cook Islands has the meaning given in regulation 4

exclusive economic zone has the meaning given in section 4 of the Maritime Zones Act 2018

foreign State vessel means—

(a) a warship of any State other than New Zealand; and

(b) a ship owned or operated by any State other than the Cook Islands or New Zealand, if the ship is being operated for non-commercial purposes

master has the meaning given in section 2(1) of the Maritime Transport Act 2008

owner has the meaning given in section 2(1) of the Maritime Transport Act 2008

person undertaking a necessary task, in relation to a person who boards a ship (other than a crew member), means the following persons acting in the normal course of their work:

(a) a pilot, as that term is defined in section 2(1) of the Maritime Transport Act 2008;

(b) a Police officer;

(c) an employee of the Ministry of Transport acting under delegated authority under section 155 of the Maritime Transport Act 2008;

COVID-19 (Maritime Border) Regulations 2021

- (d) a Customs officer, as that term is defined in section 4(1) of the Customs Revenue and Border Protection Act 2012:
- (e) an office-holder as that term is defined in section 3(1) of the Public Health Act 2004, or a person acting under delegated authority under section 10 of that Act:
- (f) a health officer, as that term is defined in section 6 of the Act:
- (g) a biosecurity officer, as that term is defined in section 2 of the Biosecurity Act 2008:
- (h) an immigration officer, as that term is defined in section 2 of the Entry, Residence and Departure Act 1971-72:
- (i) a person helping with loading, unloading, or otherwise expediting the movement of freight by vessel or the essential business of a vessel, including (without limitation)—
 - (i) an agent:
 - (ii) a stevedore:
 - (iii) a foreman:
 - (iv) a member of port or portside staff:
 - (v) a provider of logistics or other cargo-related services:
- (j) a person helping with a task necessary for the safe operation and seaworthiness of a vessel, including (without limitation)—
 - (i) a commercial surveyor:
 - (ii) a flag State inspector:
 - (iii) a classification society representative:
 - (iv) a service engineer:
- (k) a medical practitioner, as that term is defined in section 3 of the Public Health Act 2004:
- (l) an emergency worker:
- (m) a person assisting with the provisioning or welfare of the vessel's crew, including (without limitation) a chaplain or seafarer welfare advocate

port has the meaning given in section 2(1) of the Ports Authority Act 1994-95

Ports Authority means the Ports Authority established under section 5 of the Ports Authority Act 1994-95

quarantine and isolation requirements means, in respect of a vessel or person on a vessel, requirements in respect of quarantine and isolation required by Cook Islands law as in force at the time at which the vessel entered the Cook Islands

territorial sea means the territorial sea of the Cook Islands described in section 8 of the Maritime Zones Act 2018

vessel has the meaning given in section 2(1) of the Maritime Transport Act 2008.

- (2) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

4 Meaning of enter the Cook Islands

- (1) In these regulations, **enter the Cook Islands** means, in relation to a vessel, to enter the Cook Islands whether lawfully or unlawfully and whether or not the vessel does any of the following:
- (a) lands, berths, moors, anchors, or stops at any place within the Cook Islands;
 - (b) hovers above any place in the Cook Islands;
 - (c) otherwise arrives at any place in the Cook Islands.
- (2) A vessel is not to be treated as entering the Cook Islands even though it leaves the territorial sea and re-enters it if the vessel—
- (a) travels from a place in the Cook Islands and returns to that place without leaving the exclusive economic zone; or
 - (b) travels directly from a place in the Cook Islands to another place in the Cook Islands.

Restrictions on entering Cook Islands

5 Vessel not permitted to enter Cook Islands except in particular circumstances

The owner and master of a vessel must not allow the vessel to enter the Cook Islands except—

- (a) if the entry of the vessel is allowed by an exemption granted by the Secretary of Transport under regulation 6; or
- (b) if an exception in regulation 11 applies to the vessel.

Exemption by Secretary of Transport

6 Secretary of Transport may grant exemption to enter Cook Islands

- (1) The Secretary of Transport may grant an exemption to allow a vessel described in subclause (2) to enter the Cook Islands and may impose conditions on the exemption that he or she considers necessary.
- (2) An exemption may be granted for the following vessels:
- (a) cargo vessels;
 - (b) foreign State vessels that meet Cook Islands immigration entry criteria and have been granted diplomatic clearance by the Cook Islands Government;
 - (c) research vessels that meet Cook Islands immigration entry criteria and have been granted a research permit by the Cook Islands Government to undertake research activities within the Cook Islands territorial sea or the exclusive economic zone.
- (3) An exemption may be granted only if the Secretary of Transport—
- (a) is satisfied that the proposed exemption does not undermine the purpose of the Act to implement measures to prevent, limit, or mitigate the spread of COVID-19 and its effects; and
 - (b) has consulted the Secretary of Health about the proposed exemption.
- (4) An exemption may authorise—
- (a) 1 or more vessels to enter the Cook Islands:

COVID-19 (Maritime Border) Regulations 2021

- (b) 1 or more entries by a vessel to the Cook Islands.
 - (5) An exemption must be in writing.
 - (6) This regulation is subject to regulation 7.
- 7 Restrictions on cargo vessels granted exemption**
- (1) The following restrictions apply if a cargo vessel is granted an exemption to enter the Cook Islands:
 - (a) the crew must remain on the vessel at all times and are not permitted to take shore leave:
 - (b) visitors are not permitted on the vessel, but this restriction does not apply to a person who is undertaking a necessary task.
 - (2) The restrictions in subclause (1) are in addition to any other restrictions under any law or that are imposed as a condition of the exemption.
 - (3) An approval for a crew member to leave a vessel may be granted by the Secretary of Transport if it is necessary to preserve a person's life, health, or safety in an emergency.
 - (4) Subclause (1)(a) and any conditions of an exemption do not apply to the extent of any approval granted under subclause (3).

Owner and master must ensure compliance with restrictions and any conditions imposed

- 8 Owner and master must ensure compliance with restrictions and any conditions of exemption**
- (1) The owner and master of a vessel that enters the Cook Islands under an exemption granted under regulation 6 must ensure that crew and visitors comply with—
 - (a) the restrictions in regulation 7(1), in addition to restrictions under any other law; and
 - (b) any conditions of the exemption.
 - (2) Subclause (1) does not apply to the extent of any approval granted under regulation 7(3)

Restrictions on physical interaction and related measures

- 9 Vessels based in Cook Islands must not physically interact with vessels that enter Cook Islands**
- (1) The owner and master of a vessel based in the Cook Islands (**vessel A**) must ensure that there is no physical interaction with a vessel that enters the Cook Islands after these regulations come into force (**vessel B**).
 - (2) Subclause (1) applies until vessel B completes applicable quarantine and isolation requirements.
 - (3) In this regulation,—
physical interaction means that persons on vessel A—
 - (a) board vessel B; or
 - (b) allow persons on vessel B to board vessel A; or

COVID-19 (Maritime Border) Regulations 2021

- (c) touch persons on vessel B; or
- (d) allow persons on vessel B to touch persons on vessel A; or
- (e) allow persons on vessel B to transfer an item to vessel A

vessel based in the Cook Islands means a vessel in the Cook Islands that—

- (a) has not entered the Cook Islands since the commencement of these regulations; or
 - (b) has entered the Cook Islands since the commencement of these regulations but has completed quarantine and isolation requirements.
- (4) This regulation does not apply to physical interaction by or with persons undertaking a necessary task.

10 Obligations on Ports Authority

- (1) The Ports Authority must implement measures to ensure that its staff do not physically interact with persons on board a vessel that enters the Cook Islands until applicable quarantine and isolation requirements are completed.
- (2) The required measures are prohibiting staff from doing the following things:
- (a) boarding the vessel; and
 - (b) touching persons on board the vessel; and
 - (c) receiving an item from the vessel.
- (3) The Ports Authority must also require its staff to take other protective measures against the spread of COVID-19 that are necessary in the circumstances, in addition to any health measures recommended by the Ministry of Health.
- (4) This regulation does not apply to physical interaction by or with persons undertaking a necessary task.

When regulations do not apply

11 Regulations do not apply to vessels in particular circumstances

In accordance with section 33(2) of the Act, these regulations do not apply—

- (a) to a vessel that is in distress; or
- (b) to a vessel that must enter the Cook Islands to preserve human life; or
- (c) to a foreign vessel that is exercising, in accordance with the United Nations Convention on the Law of the Sea, the right of—
 - (i) innocent passage through the territorial sea; or
 - (ii) transit passage through straits used for international navigation.


Clerk of the Executive Council

These regulations are administered by the Ministry of Health.
These regulations were made on the 20th day of April 2021.